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DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2534-13; DHS Docket No. USCIS-2011-0014]

RIN 1615-ZB21

Filing Procedures for Employment Authorization and Automatic Extension of Existing Employment Authorization Documents for Liberians Eligible for Deferred Enforced Departure

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: On March 15, 2013, President Obama issued a memorandum to the Secretary of Homeland Security Janet Napolitano directing her to extend for an additional 18 months the deferred enforced departure (DED) of certain Liberians and to provide for work authorization during that period. The DED extension runs from April 1, 2013, through September 30, 2014. This notice provides instructions for eligible Liberians on how to apply for the full 18-month extension of employment authorization. Finally, this notice provides instructions for DED-eligible Liberians on how to apply for permission to travel outside the United States during the 18-month DED period.

USCIS will issue new employment authorization documents (EADs) with a September 30, 2014 expiration date to Liberians whose DED has been extended under the Presidential Memorandum of March 15, 2013, and who apply for EADs under this extension. Given the timeframes involved with processing EAD applications, DHS recognizes that not all DED-eligible Liberians will receive new EADs before their current

EADs expire on March 31, 2013. Accordingly, this notice also automatically extends for 6 months (through September 30, 2013) the validity of DED-related EADs that have an expiration date of March 31, 2013 and explains how Liberians covered under DED and their employers may determine which EADs are automatically extended and their impact on Employment Eligibility Verification (Form I-9) and E-Verify processes.

DATES: The 6-month automatic extension of employment authorization for Liberians who are covered under DED, including the extension of their EADs as specified in this notice, is effective on April 1, 2013. This automatic extension expires on September 30, 2013. The 18-month extension of DED is valid through September 30, 2014.

FURTHER INFORMATION:

- For further information on DED, including guidance on the application process for EADs and additional information on eligibility, please visit the Temporary Protected Status (TPS) Web page at <http://www.USCIS.gov/tps> and choose “Temporary Protected Status & Deferred Enforced Departure” from the menu on the left. You can find specific information about DED for Liberia by selecting “DED Granted Country: Liberia” from the menu on the left of the TPS or DED Web page. From the Liberian page, you can select the Liberian DED Questions & Answers from the menu on the right for further information.
- You can also contact the DED Operations Program Manager at the Status and Family Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529-2060; or by phone at (202) 272-1533 (this is not a toll-free number). Note: The phone number provided here is solely for questions regarding this DED notice. It is not for individual case status inquiries.

- Applicants seeking information about the status of their individual cases can check Case Status Online available at the USCIS Web site at <http://www.USCIS.gov>, or call the USCIS National Customer Service Center at 1-800-375-5283 (TTY 1-800-767-1833).
- Further information will also be available at local USCIS offices upon publication of this notice.

SUPPLEMENTARY INFORMATION:

Presidential Memorandum Extending DED for Certain Liberians

Pursuant to his constitutional authority to conduct the foreign relations of the United States, President Obama has directed that Liberian nationals (and eligible persons without nationality who last resided in Liberia) who are physically present in the United States, have continuously resided in the United States since October 1, 2002, and who remain eligible for DED through March 31, 2013 be provided DED for an additional 18-month period. See Presidential Memorandum - Deferred Enforced Departure for Liberians, March 15, 2013 (“Presidential Memorandum”) at <http://m.whitehouse.gov/the-press-office/2013/03/15/presidential-memorandum-deferred-enforced-departure-liberians>. Only individuals who held TPS under the former Liberia TPS designation as of September 30, 2007 are eligible for DED, provided they have continued to meet all other eligibility criteria established by the President. The President also directed the Secretary of Homeland Security (Secretary) to implement the necessary steps to authorize employment authorization for eligible Liberians for 18 months from April 1, 2013 through September 30, 2014.

Employment Authorization and Filing Requirements

How will I know if I am eligible for employment authorization under the Presidential Memorandum that extended DED for certain Liberians for 18 months?

The DED extension and the procedures for employment authorization in this notice apply to Liberian nationals (and persons without nationality who last habitually resided in Liberia) who:

- Are physically present in the United States;
- Have continuously resided in the United States since October 1, 2002; and
- Are under a grant of DED through March 31, 2013.

The above eligibility criteria are described in the Presidential Memorandum. Only individuals who held TPS under the former Liberia TPS designation as of September 30, 2007 are eligible for DED, provided they have continued to meet all other eligibility criteria established by the President. This DED extension does not include any individual:

- Who would be ineligible for TPS for the reasons provided in section 244(c)(2)(B) of the Immigration and Nationality Act, 8 U.S.C. 1254a(c)(2)(B);
- Whose removal the Secretary determines is in the interest of the United States;
- Whose presence or activities in the United States the Secretary of State has reasonable grounds to believe would have potentially serious adverse foreign policy consequences for the United States;
- Who has voluntarily returned to Liberia or his or her country of last habitual residence outside the United States;
- Who was deported, excluded, or removed prior to March 15, 2013; or
- Who is subject to extradition.

What will I need to file if I am covered by DED and would like to have evidence of employment authorization?

If you are covered under DED for Liberia, and would like evidence of your employment authorization during the 18-month extension of DED, you must apply for an EAD by filing an Application for Employment Authorization (Form I-765). USCIS will begin accepting these applications on [Insert date of publication in the FEDERAL REGISTER]. If you have a DED-related EAD that is valid through March 31, 2013, you must file an Application for Employment Authorization (Form I-765) as soon as possible to avoid gaps in work authorization. Please carefully follow the Application for Employment Authorization (Form I-765) instructions when completing the application for an EAD. When filing the Application for Employment Authorization (Form I-765), you must:

- Indicate that you are eligible for DED by putting “(a)(11)” in response to Question 16 on Form I-765;
- Include a copy of your last Notice of Action (Form I-797) showing that you were approved for TPS as of September 30, 2007, if such copy is available. Please note that evidence of TPS as of September 30, 2007 is necessary to show that you were covered under the previous DED for Liberia through March 31, 2013; and
- Submit the fee for the Application for Employment Authorization (Form I-765).

The regulations require individuals covered under DED who request an EAD to pay the fee prescribed in 8 CFR 103.7(b)(1)(i)(HH) for the Application for Employment Authorization (Form I-765). See also 8 CFR 274a.12(a)(11) (employment authorized for DED-covered aliens); 8 CFR 274a.13(a) (requirement to file EAD application if EAD desired). If you are unable to pay the fee, you may apply for an application fee waiver by

completing a Request for Fee Waiver (Form I-912) or submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation

How will I know if I will need to obtain biometrics?

If biometrics are required to produce the secure EAD, you will be notified by USCIS and scheduled for an appointment at a USCIS Application Support Center.

Where do I submit my completed Application for Employment Authorization (Form I-765)?

Please submit your completed Application for Employment Authorization (Form I-765) and supporting documentation to the proper address in Table 1.

Table 1-Mailing Addresses

If...	Mail to...
You are applying through the U.S. Postal Service	USCIS Attn: DED Liberia P.O. Box 6943 Chicago, IL 60680-6943
You are using a non-U.S. Postal Service delivery service	USCIS Attn: DED Liberia 131 S. Dearborn 3rd Floor Chicago, IL 60603-5517

Can I file my Application for Employment Authorization (Form I-765) electronically?

No. Electronic filing is not available for filing Form I-765 based on DED.

Extension of Employment Authorization and EADs

May I request an interim EAD at my local office?

No. Local USCIS offices will not issue interim EADs to individuals eligible for DED under the Presidential Memorandum.

Am I eligible to receive an automatic 6-month extension of my current EAD from April 1, 2013 through September 30, 2013?

You are eligible for an automatic 6-month extension of your EAD if you are a national of Liberia (or person having no nationality who last habitually resided in Liberia), you are currently covered by DED through March 31, 2013, and you are within the class of persons approved for DED by the President.

This automatic extension covers EADs issued on the Employment Authorization Document (Form I-766) bearing an expiration date of March 31, 2013. These EADs must also bear the notation “A-11” on the face of the card under “Category.”

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification, Form I-9?

You can find a list of acceptable document choices on the “Lists of Acceptable Documents” for Employment Eligibility Verification (Form I-9). You can find additional detailed information on the USCIS I-9 Central Web page at <http://www.USCIS.gov/I-9Central>. Employers are required to verify the identity and employment authorization of all new employees by using Employment Eligibility Verification (Form I-9). Within 3 days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). An EAD is an acceptable document under List A. Employers may not reject a document based upon a future expiration date.

If you received a 6-month automatic extension of your EAD by virtue of this Federal Register notice, you may choose to present your automatically extended EAD, as described above, to your employer as proof of identity and employment authorization for Employment Eligibility Verification (Form I-9) through September 30, 2013 (see the subsection below titled “How do my employer and I complete Employment Eligibility Verification (Form I-9) using an automatically extended EAD for a new job?” for further information). To minimize confusion over this extension at the time of hire, you may also show your employer a copy of this Federal Register notice regarding the automatic extension of employment authorization through September 30, 2013. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, or List B plus List C.

What documentation may I show my employer if I am already employed but my current DED-related EAD is set to expire?

Even though EADs with an expiration date of March 31, 2013 that state “A-11” under “Category” have been automatically extended for 6 months by virtue of this Federal Register notice, your employer will need to ask you about your continued employment authorization once March 31, 2013 is reached to meet its responsibilities for Employment Eligibility Verification (Form I-9). However, your employer does not need a new document to reverify your employment authorization until September 30, 2013, the

expiration date of the automatic extension. Instead, you and your employer must make corrections to the employment authorization expiration dates in Section 1 and Section 2 of Employment Eligibility Verification (Form I-9) (see the subsection below titled, “What corrections should my current employer and I make to Employment Eligibility Verification (Form I-9) if my EAD has been automatically extended?” for further information). In addition, you may also show this Federal Register notice to your employer to avoid confusion about what to do for Employment Eligibility Verification (Form I-9).

By September 30, 2013, the expiration date of the automatic extension, your employer must reverify your employment authorization. You must present any document from List A or any document from List C on Employment Eligibility Verification (Form I-9) to reverify employment authorization. Your employer is required to reverify on Employment Eligibility Verification (Form I-9) the employment authorization of current employees no later than the expiration of a DED-related EAD. Your employer should use either Section 3 of a new Employment Eligibility Verification (Form I-9) originally completed for the employee or, if this section has already been completed or if the version of Employment Eligibility Verification (Form I-9) is no longer valid, complete Section 3 of a new Employment Eligibility Verification (Form I-9) using the most current version. Note that your employer may not specify which List A or List C document employees must present.

What happens after September 30, 2013 for purposes of employment authorization?

After September 30, 2013, employers may not accept the EADs that this Federal Register notice automatically extended. However, before that time, USCIS will issue

new EADs to eligible individuals covered under DED who request an EAD. These new EADs will have an expiration date of September 30, 2014 and can be presented to your employer as proof of employment authorization and identity. The EAD will bear the notation “A-11” on the face of the card under “Category.” Alternatively, you may choose to present any other legally acceptable document or combination of documents listed on Employment Eligibility Verification (Form I-9).

How do I and my employer complete Employment Eligibility Verification (Form I-9) using an automatically extended EAD for a new job?

When using an automatically extended EAD to fill out Employment Eligibility Verification (Form I-9) for a new job prior to September 30, 2013, you and your employer should do the following:

(1) For Section 1, you should:

- a. Check “An alien authorized to work”;
- b. Write your alien number (USCIS number or A-number) in the first space (your EAD or other document from DHS will have your USCIS number or A-number printed on it; the USCIS Number is the same as your A-number without the A prefix); and
- c. Write the automatic extension date (September 30, 2013) in the second space.

(2) For Section 2, employers should record the:

- a. Document title;
- b. Document number; and
- c. Automatically extended EAD expiration date (September 30, 2013).

No later than September 30, 2013, when the automatic extension of EADs expires, employers must reverify the employee’s employment authorization in Section 3

of Employment Eligibility Verification (Form I-9).

What corrections should my current employer and I make to Employment Eligibility Verification (Form I-9) if my EAD has been automatically extended?

If you are an existing employee who presented a DED-related EAD that was valid when you first started your job, but that EAD has now been automatically extended, you and your employer should correct your previously completed Employment Eligibility Verification (Form I-9) as follows:

(1) For Section 1, you should:

- a. Draw a line through the expiration date in the second space;
- b. Write “September 30, 2013” above the previous date;
- c. Write “DED Ext.” in the margin of Section 1; and
- d. Initial and date the correction in the margin of Section 1.

(2) For Section 2, employers should:

- a. Draw a line through the expiration date written in Section 2;
- b. Write “September 30, 2013” above the previous date;
- c. Write “DED Ext.” in the margin of Section 2; and
- d. Initial and date the correction in the margin of Section 2.

No later than September 30, 2013, when the automatic extension of EADs expires, employers must reverify the employee’s employment authorization in Section 3 of Employment Eligibility Verification (Form I-9).

If I am an employer enrolled in E-Verify, what do I do when I receive a “Work Authorization Documents Expiring” alert for an automatically extended EAD?

If you are an employer who participates in E-Verify, you will receive a “Work Authorization Documents Expiring” case alert when an individual covered under DED

has an EAD that is about to expire. Usually, this message is an alert to complete Section 3 of Employment Eligibility Verification (Form I-9) to reverify an employee's employment authorization. For existing employees with DED-related EADs that have been automatically extended, employers should dismiss this alert by clicking the red "X" in the "dismiss alert" column and follow the instructions above explaining how to correct Employment Eligibility Verification (Form I-9). By September 30, 2013, employment authorization must be reverified in Section 3. You should never use E-Verify for reverification.

Can my employer require that I produce any other documentation to prove my status, such as proof of my Liberian citizenship?

No. When completing Employment Eligibility Verification (Form I-9), including reverifying employment authorization, employers must accept any documentation that appears on the "Lists of Acceptable Documents" for Employment Eligibility Verification (Form I-9) and that reasonably appears to be genuine and that relates to you. Employers may not request documentation that does not appear on the "Lists of Acceptable Documents." Therefore, employers may not request proof of Liberian citizenship when completing Employment Eligibility Verification (Form I-9) for new hires or reverifying the employment authorization of current employees. If presented with EADs that are unexpired on their face or that have been automatically extended, employers should accept such EADs as valid List A documents so long as the EADs reasonably appear to be genuine and to relate to the employee. See below for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call the USCIS Form I-9 Customer Support at 888-464-4218 (TDD for the hearing impaired is at 877-875-6028). For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800-255-8155 (TDD for the hearing impaired is at 800-237-2515), which offers language interpretation in numerous languages.

Note to Employees

For general questions about the employment eligibility verification process, employees may call the USCIS National Customer Service Center at 800-375-5283 (TDD for the hearing impaired is at 800-767-1833); calls are accepted in English and Spanish. Employees or applicants may also call the OSC Worker Information Hotline at 800-255-7688 (TDD for the hearing impaired is at 800-237-2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, or for information regarding discrimination related to Employment Eligibility Verification (Form I-9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of

documents acceptable for Employment Eligibility Verification (Form I-9) completion if the documentation reasonably appears to be genuine and to relate to the employee.

Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I-9) completion. Further, employers participating in E-Verify who receive an E-Verify initial mismatch (“tentative nonconfirmation” or “TNC”) on employees must inform employees of the mismatch and give such employees an opportunity to challenge the mismatch.

Employers are prohibited from taking adverse action against such employees based on the initial mismatch unless and until E-Verify returns a final nonconfirmation. For example, employers must allow employees challenging their mismatches to continue to work without any delay in start date or training and without any change in hours or pay, while the final E-Verify determination remains pending. Additional information is available on the OSC Web site at <http://www.Justice.gov/crt/about/osc> and the USCIS Web site at <http://www.DHS.gov/E-Verify>.

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal government agencies must follow the guidelines laid out by the Federal government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are covered under DED and/or show you are authorized to work based on DED. Examples are:

- (1) Your expired EAD that has been automatically extended, or your EAD that has not expired;
- (2) A copy of this Federal Register notice if your EAD is automatically extended under this notice;
- (3) A copy of your past Application for Temporary Protected Status Notice of Action (Form I-797), if you received one from USCIS, coupled with a copy of the Presidential Memorandum extending DED for Liberians; and
- (4) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS DED Web page that provides information on the automatic extension.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at <http://www.USCIS.gov/save>, then by choosing "How to Correct Your Records" from the menu on the right.

Travel Authorization and Advance Parole

Individuals covered under DED who would like to travel outside of the United States must apply for and receive advance parole by filing an Application for Travel Document (Form I-131) with required fee before departing from the United States. See 8 CFR 223.2(a). DHS has the discretion to determine whether to grant advance parole and cannot guarantee advance parole in all cases. In addition, possession of an advance parole document does not guarantee that you will be permitted to reenter the United States, as that is a decision that will be made by an immigration officer at the port of entry upon your return. If you seek advance parole to travel to Liberia or to your country of last habitual residence outside the United States, you will risk being found ineligible to re-enter the United States under DED because the Presidential Memorandum excludes persons “who have voluntarily returned to Liberia or his or her country of last habitual residence outside the United States.”

You may submit your completed Application for Travel Document (Form I-131) with your Application for Employment Authorization (Form I-765). If you choose to file an Application for Travel Document (Form I-131) separately, please submit the application along with supporting documentation that you qualify for DED to the proper address in Table 2.

Table 2-Mailing Addresses

If...	Mail to...
You are applying through the U.S. Postal Service	USCIS Attn: DED Liberia P.O. Box 6943 Chicago, IL 60680-6943
You are using a non-U.S. Postal Service delivery service	USCIS Attn: DED Liberia 131 S. Dearborn 3rd Floor Chicago, IL 60603-5517

If you have a pending or approved Application for Employment Authorization (Form I-765), please submit the Notice of Action (Form I-797) along with your Application for Travel Document (Form I-131) and supporting documentation.

Alejandro N. Mayorkas,
Director,
U.S. Citizenship and Immigration Services.

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